



ENVIRONMENTAL PROTECTION AGENCY

[FRL-9750-5]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (“CAA”), notice is hereby given of a proposed consent decree to resolve a lawsuit filed by the Environmental Integrity Project, Sierra Club, and Texas Campaign for the Environment (collectively, “Plaintiffs”) in the United States District Court for the District of Columbia: Environmental Integrity Project, et al., v. Jackson, No. 1:12-cv-00867-RMC (D. D.C.). Plaintiffs filed a deadline suit to compel the Administrator to respond to an administrative petition seeking EPA’s objection to a CAA Title V operating permit issued by the Texas Commission on Environmental Quality to the Luminant Generation Company to operate the Sandow 5 Generating Plant, a power plant located in Milam County, Texas. Under the proposed consent decree, EPA would agree to respond to the petition by January 15, 2013.

DATES: Written comments on the proposed consent decree must be received by [insert date 30 days after publication date].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2012-0847 online at www.regulations.gov (EPA’s preferred method); by e-mail to oei.docket@epa.gov; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301

Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: David Coursen, Office of General Counsel (Mail Code 2344A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-0781; fax number (202) 564-5603; email address: coursen.david@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed consent decree.

This proposed consent decree would resolve a lawsuit alleging that the Administrator failed to perform a nondiscretionary duty to grant or deny, within 60 days of submission, an administrative petition to object to a CAA Title V permit issued by the Texas Commission on Environmental Quality to the Luminant Generation Company to operate the Sandow 5 Generating Plant, a power plant located in Milam County, Texas. Under the proposed consent decree, EPA would agree to respond to the petition by January 15, 2013. In addition, the proposed consent decree further states that following signature, EPA shall expeditiously deliver notice of such action to the Office of the Federal Register for publication and, if EPA's response includes the granting of any portion of the petition in whole or in part, EPA shall promptly transmit the response to the Texas Commission on Environmental Quality. Plaintiffs and EPA agree that this Consent Decree shall constitute a complete and final settlement of all claims that Plaintiffs have asserted against the United States, including EPA, under any provision of

law in connection with Environmental Integrity Project, et al. v. Jackson, Case No. 12-cv-00867 (D.D.C.), except as provided in Paragraph 4 of the proposed Consent Decree, addressing any claim for costs of litigation.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the consent decree will be affirmed.

II. Additional information about commenting on the proposed consent decree.

A. How Can I Get A Copy Of the Consent Decree?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2012-0847) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through

www.regulations.gov. You may use the www.regulations.gov to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search”.

It is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at www.regulations.gov without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA’s policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA’s electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be

identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the www.regulations.gov website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through www.regulations.gov, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Lorie J. Schmidt,
Associate General Counsel.

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